

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

RUBEN T. DAVILA,
Petitioner,
v.
RAUL LOPEZ, Warden,
Respondent.

Case No. CV 10-0541 DMG (JCG)

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE AND
DENYING CERTIFICATE OF
APPEALABILITY**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all of the records herein, the Report and Recommendation of the United States Magistrate Judge, and the Objections to the Report and Recommendation. Having made a *de novo* determination of the portions of the Report and Recommendation to which the Objections were directed, the Court concurs with and accepts the findings and conclusions of the Magistrate Judge's Report and Recommendation.

Additionally, for the reasons stated in the Report and Recommendation, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a certificate of

1 appealability.

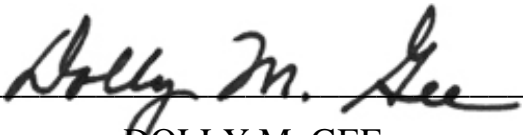
2 Accordingly, IT IS ORDERED THAT:

3 1. Judgment shall be entered dismissing the action with prejudice.

4 2. The Clerk shall serve copies of this Order and the Judgment herein on
5 the parties.

6 3. Petitioner's Application for Certificate of Appealability, is denied.

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8 DATED: December 29, 2011

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10 DOLLY M. GEE
11 UNITED STATES DISTRICT JUDGE
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